1833/06

Filed on 23/3/06
by Shri Manohar Gandhi Advocate
R. to D. 2. (J) 23/3/06

(1) (C3)

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

Cr. Revision No. 188 /2006

APPLICANT : Triveni Prasad Ratre, S/o. Late D.R. Ratre, Aged about 48 years, R/o. Ramanuj Ganj, Road, Ambikapur, Distt- Surguja (C.G.). (A. 23/8/06)

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CLERK to A. G. BILASPUR

VERSUS

RESPONDENT : State of Chhattisgarh, Through: Police Station Ambikapur, District Surguja (CG)

REVISION UNDER SECTION 397 R/W. SECTION 401 OF THE CODE OF CRIMINAL PROCEDURE

XI-HC-22

(51)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.Rev. No. 188/ सन् 2006

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25.03.2006

Shri Manoj Paranjpe, learned counsel for the applicant.

Shri Ashish Shukla, learned G.A. for State/respondent.

Heard on I.A. No. 774/2006 for urgent hearing.

Considered and allowed.

The matter is taken up on Board.

Shri Manoj Paranjpe, learned counsel for the applicant prays that this matter be heard finally at the stage of admission today. He submits that he does not want to press on M.Cr.P. No. 595/2006 for grant of stay.

Prayer is not opposed.

Application (M.Cr.P.No.595/2006) is dismissed as not pressed.

This revision is finally heard today.

Brief facts are that the applicant herein was, at the relevant time, working in the Settlement Office at Ambikapur. The deceased Shikha Rani Rai was also working as a contingency employee in the same office. It is alleged that Shikha Rani Rai committed suicide on 17.6.1993 in her house by consuming poison. Before doing so, it is also alleged that she left a suicidal note in which she had mentioned that the applicant herein, was a characterless person and because of him she had been defamed. This suicidal note was sent to the State Examiner of Questioned Documents, Govt. of Madhya Pradesh, Bhopal by the prosecution. After comparing with the standard handwriting of the deceased marked as Ex.P-21, the Additional State Examiner of Questioned Documents Shri A.K. Das opined vide opinion dated

(52)

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28.01.2000 that the suicidal note was not in the handwriting of the deceased since her standard writing did not match with the writing on the suicidal note. The evidence of Shri A.K. Das was recorded by the trial Court on 8.6.2001. He was further examined on 4.10.2005. On 4.10.2005, Shri A.K. Das, the Addl. State Examiner produced in Court, another report Ex.P-23 dated 3.9.2001 opining that the hand writing and signature on the questioned document matched with the standard hand writing of the deceased. Thus, the same expert for the State of Madhya Pradesh gave two absolutely contradictory opinions. Upon this, the applicant herein, filed an application on 13.2.2006 under Section 45 of the Evidence Act for permission to get the standard writing as also the questioned document examined from another handwriting expert at the expense of the applicant herein. However, the trial Court rejected his prayer on the ground that the applicant/accused herein had sufficient opportunity to cross-examine the expert during trial.

Shri Manoj Paranjpe, learned counsel for the applicant submitted that in view of the divergent and wholly contradictory opinion given by the same expert, it was necessary in the interest of justice to give an opportunity to the accused/applicant herein, to get the standard writing of the deceased compared with the questioned document by another hand writing expert at his own expense so that the applicant herein, was not prejudiced in his defence. Learned counsel contended that the rejection of the application under Section 45 of Evidence Act by the trial Court was thus wholly contrary to law and against the principles of

(53)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr. Rev. No. 188/2006 सन् 200

विरुद्ध

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	natural justice. On the other hand, Shri Ashish Shukla, learned G.A. formally opposed the prayer. Having heard the rival contentions, it must be said that the impugned order dated 24.2.2006 is manifestly erroneous and contrary to the principles of natural justice. The applicant herein, ought to have been given an opportunity to get the question document i.e. the suicidal note compared with the standard writing of the deceased by any other hand writing expert at his own expense. In the result, this revision is allowed. The order dated 24.2.2006 passed by the First Addl. Sessions Judge, Ambikapur, Distt. Surguja is set aside. The learned Addl. Sessions Judge shall give an opportunity to the applicant herein to get the opinion of the hand writing expert of his choice, on the question document, at his own expense within a period of 2 months. **Sd/-** **Dilip Raosaheb Deshmukh** **Judge**	-3-

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